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9 **BEFORE THE**
10 **CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. OA 2006-360

13 **MOJGAN V. HASSANI**
14 11984 Rancho Bernardo Rd. #F
San Diego, CA 92128

FIRST AMENDED ACCUSATION

15 Occupational Therapy Assistant
16 Certificate No. OTA 1532

Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Heather Martin (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the California Board of Occupational Therapy, Department
22 of Consumer Affairs.

23 2. On or about February 17, 2006, the California Board of Occupational
24 Therapy issued Occupational Therapy Assistant Certificate Number OTA 1532 to Hassani,
25 Mojgan V. (Respondent). The Occupational Therapy Assistant Certificate was in full force and
26 effect at all times relevant to the charges brought herein and will expire on April 30, 2011, unless
27 renewed.

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JURISDICTION

3. This Accusation is brought before the California Board of Occupational Therapy (Board), Department of Consumer Affairs, under the authority of the following laws.

All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2570.28 states:

The board may deny or discipline a licensee for any of the following:

(a) Unprofessional conduct, including, but not limited to, the following:

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any regulation adopted pursuant to this chapter.

(e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.

5. Section 2570.29 states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or, except as directed by a licensed physician and surgeon, dentist, optometrist, or podiatrist, to administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

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1 6. Section 118 of the Code states:

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3 (b) The suspension, expiration, or forfeiture by operation of law of a
4 license issued by a board in the department, or its suspension, forfeiture, or
5 cancellation by order of the board or by order of a court of law, or its surrender
6 without the written consent of the board, shall not, during any period in which
7 it may be renewed, restored, reissued, or reinstated, deprive the board of its
8 authority to institute or continue a disciplinary proceeding against the licensee
9 upon any ground provided by law or to enter an order suspending or revoking
10 the license or otherwise taking disciplinary action against the licensee on any
11 such ground.

12 7. Section 125.3 of the Code provides, in pertinent part, that the Board may
13 request the administrative law judge to direct a licensee found to have committed a violation or
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
15 and enforcement of the case.

16 8. Section 22 of the Code states:

17 (a) 'Board' as used in any provisions of this Code, refers to the board
18 in which the administration of the provision is vested, and unless otherwise
19 expressly provided, shall include 'bureau,' 'commission,' 'committee,'
20 'department,' 'division,' 'examining committee,' 'program,' and 'agency.'

21 9. Section 490 of the Code states:

22 (a) In addition to any other action that a board is permitted to take
23 against a licensee, a board may suspend or revoke a license on the ground that
24 the licensee has been convicted of a crime, if the crime is substantially related
25 to the qualifications, functions, or duties of the business or profession for which
26 the license was issued.

27 California Code of Regulations, title 16, section 4170(e), states:

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29 (e) Occupational therapy practitioners shall comply with the
30 Occupational Therapy Act, the California Code of Regulations, and all
31 other related local, state and federal laws.

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1 FIRST CAUSE FOR DISCIPLINE

2 (July 16, 2007, Conviction For Reckless Driving on May 13, 2007)

3 10. Respondent is subject to disciplinary action under sections 490 and
4 2570.28(e) in that on July 16, 2007, in the County of San Diego Superior Court, North County
5 Division, in a case entitled, People of the State of California v. Morgan V. Hassani, Case
6 No. CN230193, Respondent was convicted on per her plea of guilty to violating Vehicle Code
7 23103(a) (Reckless Driving). The circumstances are as follows:

8 a. On May 13, 2007, at approximately 2200 hours, San Diego Sheriff's
9 Department deputies stopped Respondent's vehicle because Respondent was driving on the
10 wrong side of the road. When the deputies made contact with Respondent, the deputies asked
11 Respondent if she had been drinking or used any narcotics recently. Respondent told the
12 deputies that she had used methamphetamine on the 29th of April.

13 The deputies asked Respondent to step out of the vehicle. One of the deputies
14 asked Respondent if she was seeing a physician or taking any prescription medication, and
15 Respondent stated she was not seeing a physician or taking any prescription medications. The
16 deputy asked Respondent to stick out her tongue. The deputy observed a thick off-white coating
17 on Respondent's tongue. The deputy had Respondent perform a Rhomberg internal clock test.
18 Respondent estimated 30 seconds as 22 actual seconds during the Rhomberg test. During the
19 test, the deputy observed Respondent had eyelid tremors and her upper body swayed from side to
20 side about two inches. The deputy checked Respondent's pulse rate and obtained a pulse rate of
21 110 beats per minute. The normal range is 60-80 beats per minute.

22 Deputies obtained a consent to search Respondent's vehicle. While one deputy
23 searched the car, the other deputy performed a Field Coordination Test (FCT) to determine if
24 Respondent was under the influence of alcohol. The deputy conducting the FCT noticed
25 Respondent's eyes were bloodshot and watery, her speech was slow and slurred, and Respondent
26 was extremely lethargic. As the deputy stood talking to Respondent, the deputy observed a
27 bubble package of prescription medication labeled "Lexapro" sitting in plain view on the right
28 front passenger seat. The deputy asked Respondent if she had a prescription for the medication

1 and Respondent replied, "No, the doctor just gave me these samples to try." The deputy asked
2 Respondent if she had been drinking, and Respondent responded, "Yes." Respondent told the
3 deputy that she had "2 shots of Kamakaze" with a friend at about 1800 hours.

4 The deputy who searched Respondent's vehicle found a green leafy substance that tested
5 presumptive positive for marijuana, rolling papers, and a bottle of liquor. The deputy also found
6 in Respondent's vehicle the drug Lexapro, which Respondent possessed without a prescription,
7 as well as an empty bottle of "Kamakaze" alcohol.

8 After substandard performance on the FCT's, deputies determined Respondent was under
9 the influence of a controlled substance deputies placed Respondent under arrest for violation of
10 Vehicle Code section 23152(a) (driving under the influence of alcohol and/or drugs) and
11 Respondent was transported to the San Marcos station where she submitted to a breath test. The
12 results of the breath test were a blood alcohol level of 0.3% at 2250 hours, and 0.3% at 2254
13 hours. Respondent also provided a blood and urine samples.

14 Respondent was booked for driving under the influence, possession of a prescription drug
15 without a prescription, and for possession of marijuana.

16 b. As a result of the above conviction, Respondent was placed on three years
17 summary probation, sentenced to serve two days in custody, with two days credit for time served,
18 ordered to pay \$1,070 in fees and fines, and ordered to attend and complete 12 hours of
19 instruction through the First Conviction program.

20 SECOND CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct - April 29, 2007 - Possession of Narcotics, Controlled Substances)

22 11. Respondent is subject to disciplinary action under section 2570.28(a) in
23 that on or about April 29, 2007, Respondent possessed methamphetamine, Oxycodone HCl
24 Acetaminophen, Vicodin, marijuana, and drug paraphernalia.

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1 a. The circumstances are that on April 29, 2007, at approximately 2105
2 hours, officers were dispatched to a report of a stalking in the City of San Marcos. Information
3 provided to officers was that the suspect (Respondent) was in the reporting party's backyard.
4 When officers arrived at the scene, Respondent walked toward officers. Officers noticed that
5 Respondent had an unsteady gait. Officers asked Respondent for identification and Respondent
6 informed officers her identification was in her vehicle which was parked about twenty feet away.
7 Respondent gave officers the keys and permission to retrieve her identification from her vehicle.
8 When officers entered Respondent's vehicle to retrieve the identification, they observed a glass
9 pipe, commonly used to smoke crystal methamphetamine, resting on the passenger seat next to
10 the purse and a lighter. The stem of the pipe was coated white and the bulb of the pipe was black
11 as if it had been burnt. Officers observed inside the open purse a small baggie containing a white
12 crystal substance. Officers recognized the crystal substance as methamphetamine. Respondent
13 admitted the purse, the pipe and the crystal methamphetamine were hers. Officers also found a
14 plastic prescription bottle without a legible label on it. Inside the bottle were several white pills.
15 The pills were later identified using a 2006 Drug Identification Bible as Percocet (5 mg
16 Oxycodone HCl and 325 mg Acetaminophen), Vicodin (5 mg Hydrocodone and 500 mg
17 Acetaminophen). Officers further found a baggie containing a green leafy substance, which was
18 identified as marijuana. Respondent was placed under arrest for possession of a controlled
19 substance and for possession of drug paraphernalia.

20 Respondent told officers that she started taking cocaine and medications, and that
21 after knee surgery, she started taking Vicodin. Respondent told officers that after a while, she no
22 longer could snort cocaine through her nose, so her dealer recommended that Respondent try
23 methamphetamine. Respondent told officers she drove herself to the hospital once because she
24 smoked too much methamphetamine and almost overdosed. Respondent told officers that she
25 last smoked crystal that morning at about 3:00 a.m. Respondent admitted to officers that she
26 bought the pills from a dealer at \$6 per pill, and that she spent about \$60 per week on crystal
27 methamphetamine.

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1 b. As a result of the above arrest, Respondent pled guilty in San Diego
2 Superior Court, North County Division, in a case entitled, People v. Morgan Hassani,
3 Case No. CN228543, to violating Health and Safety Code section 11550(a) (Under the Influence
4 of a Controlled Substance). The court granted Respondent deferred entry of judgment for 18
5 months pursuant to Penal Code section 1000 and was ordered to pay \$600 in fees and fines.
6 Respondent successfully completed the PC 1000 program in January of 2009.

7 THIRD CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct - Conviction of a Drug/Alcohol Related Crime)

9 12. Respondent is subject to disciplinary action under section 2570.29(c) in
10 that she was convicted of a drug or alcohol related crime, as is more fully described at paragraph
11 10, above.

12 FOURTH CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct -
14 Illegal Possession/Prescribing/Self-Administration of a Controlled Substance)

15 13. Respondent is subject to disciplinary action under section 2570.29(a) in
16 that she was convicted of a drug or alcohol related crime, as is more fully described at paragraphs
17 10 and 11, above.

18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein
20 alleged, and that following the hearing, the California Board of Occupational Therapy issue a
21 decision:

22 1. Revoking or suspending Occupational Therapy Assistant Certificate
23 Number OTA 1532, issued to Mojgan V. Hassani.

24 2. Ordering Mojgan V. Hassani to pay the California Board of Occupational
25 Therapy the reasonable costs of the investigation and enforcement of this case, pursuant to
26 Business and Professions Code section 125.3;

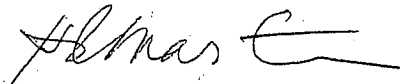
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3. Taking such other and further action as deemed necessary and proper.

DATED: September 14, 2009



HEATHER MARTIN
Executive Officer
California Board of Occupational Therapy
Department of Consumer Affairs
State of California
Complainant